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UNCLAS SECTION 01 OF 16 MADRID 000183

SENSITIVE
SIPDIS

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SP
SUBJECT: TENTH ANNUAL TRAFFICKING IN PERSONS (TIP) REPORT FOR SPAIN

REF: STATE 2094
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¶11. (SBU) Pursuant to Ref A, the following is input from Embassy Madrid and CG Barcelona for the tenth annual Trafficking in Persons (TIP) Report. Post will need to supply an update cable to incorporate additional legal and judicial statistics. Embassy POC is POLOFF Hugh Clifton, Tel. (34) 91-587-2294, fax (34) 91-587-2391. POL/MGT Officer Darby Parliament is the POC at the Consulate General in Barcelona: Tel. (34)93-280-2227, fax (34)93-205-7764.

Staff hours spent in preparation of this report are as follows:
POLITICAL COUNSELOR, FS-01: 1 HOUR
POLITICAL OFFICER, FS-04: 65 HOURS
POLITICAL SPECIALIST, LES-10: 25 HOURS
CONSULATE POLITICAL/MGMT OFFICER, FS-03: 10 HOURS
CONSULATE POLITICAL SPECIALIST, LES-10: 10 HOURS

//OVERVIEW//

¶12. (SBU) Spain maintains an active set of political, legal and social mechanisms to combat trafficking in persons (TIP). The Spanish government (GOS) places a high priority on fighting TIP and coordinates this fight with national and international law enforcement, regional and local governments, and non-governmental organizations (NGOs). During the reporting period, Spain undertook a broad array of measures to assist trafficking victims, take down trafficking networks, prosecute perpetrators, prevent future trafficking, and reduce the demand for commercial sex acts. Spain's efforts were highlighted by the multi-faceted implementation of the government's ambitious, three-year, 61-point plan to combat TIP for the purposes of sexual exploitation, which was approved in December 2008 and came into force in January 2009. The GOS has strict rules on the books for Spanish nationals caught participating in international child sex tourism, and Spanish peacekeepers deployed abroad receive anti-TIP training through participation in

multilateral efforts. The GOS is firmly committed to combating TIP and undertook a series of concrete actions in 2009 to carry out this political will. Post firmly believes that the GOS's efforts during 2009 merit Spain's continued inclusion in the Tier 1 category of countries combatting TIP.

13. (SBU) Spain remains both a transit and destination country for internationally trafficked persons, primarily women between the ages of 18 to 25 trafficked for prostitution. Spain is generally not a country of origin for trafficking. Statistical data and information on Spanish government efforts to combat TIP come from the Ministry of Interior, which includes the Spanish National Police (SNP) and the Civil Guard (GC), the Spanish national courts, and NGOs.

//STATISTICS AND DATA//

14. (SBU) Post fully expects the SNP once again to furnish us with a restricted internal report that provides detailed information on TIP enforcement trends, including TIP-related arrests and the number of trafficking victims identified during the reporting period. Post will provide this information septel. The GOS continues to distinguish between trafficking crimes and migrant smuggling, and government statistics and information clearly reflect this distinction.

//SPAIN'S TIP SITUATION//

15. (SBU) Checklist 25 A. Statistical data and information on Spanish government efforts to combat TIP come from the Ministry of Interior - which includes the Spanish National Police (SNP) and the Civil Guard (GC) as well as the Ministry of Justice, the Spanish national courts, and NGOs. The Spanish Network Against TIP, a coalition of more than 20 diverse and active NGOs, claims that there

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are at least 50,000 people in Spain who are victims of TIP. Spanish security services dispute this number as too large, although they do not offer their own estimates. The GC reported in 2008 that 90 percent of TIP victims in Spain are foreign nationals. As in previous years, information on specific TIP-related investigations, convictions and sentencing was available through an on-line subscription to the Spanish affiliate of WESTLAW (www.westlaw.es), whose database includes data on a sub-set - but not all - of Spanish TIP-related prosecutions. The Prosecutor's Office has made commendable progress in normalizing the compilation of its TIP-related judicial statistics and the Organized Crime Intelligence Center (CICO) is making solid progress in its one-stop shop database on TIP-related law enforcement data.

16. (SBU) Checklist 25 B - D. Spain continues to be both a destination and transit country for trafficked persons for the purposes of sexual exploitation, and to a lesser degree, forced labor. Spain is generally not a country of origin for trafficking and the MFA informed Post that it knew of no such cases during 2009. Trafficking in women and girls is mostly for sexual exploitation and prostitution. According to Spanish law enforcement and NGOs, trafficked women traditionally have been 18 to 25 years of age, with some girls as young as 16. Women were trafficked primarily from Eastern Europe (Romania and Russia), Latin America (Brazil and Colombia), and sub-Saharan Africa (Nigeria). Data published by the Spanish media in May 2009 indicates that various regions in Spain favor women from one country or another, revealing geographical preference has a hand in the market. For example, in Cantabria, 90 percent are Brazilian; in Girona, the vast majority is from Romania. Project Esperanza ("Project Hope"), one of the leading anti-TIP NGOs, has told Post that Romanian TIP victims form the largest victim group by nationality in Spain while Chinese TIP victims are a very small community in Spain.

17. (SBU) Checklist 25 E. In Spain, trafficking networks take a variety of forms and operate under diverse conditions, making them difficult to control. The SNP's UCRIF unit publicly has noted that the traffickers can be run by a couple, a gang of friends, or by massive, highly structured groups that operate across borders as multinational operations. In recent years, law enforcement authorities and NGOs have seen increasing incidents of victims being

trafficked by individuals and smaller groups of traffickers. Proyecto Esperanza in 2009 reported that traffickers are most often groups of delinquents or organized crime groups and less often smaller groups of two to four people who are less organized and have fewer infrastructures at their disposal. The Spanish chapter of Save the Children continues to indicate to Post that there have been numerous instances of minors - especially from Romania - being trafficked into Spain and forced to beg in the streets for money. Methods used by traffickers to maintain control of their victims have included physical abuse, forced use of drugs, withholding of travel documents, and threats to the victim's family, although now traffickers also threaten the victims with informing their families about what they do if they do not pay what they "owe" them. Traffickers also lured some victims from other regions by using violence, intimidation, coercion and deceit. Other methods utilized include abuse of a position of authority or by taking advantage of a victim's needs or vulnerabilities. Often, trafficked victims are lured by false promises of employment in service industries and agriculture, but then forced them into prostitution upon their arrival. The media reported that criminal networks often lured their victims by using travel agencies and newspaper advertisements in their home countries that promised assured employment in Spain. In the case of Romanian organized networks, women were typically forced into prostitution.

¶8. (SBU) Continue Checklist 25 E. In 2009 Spain confronted several instances of voodoo as a method of intimidation for Nigerian TIP victims who were being sexually exploited. Police in May discovered

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an extensive human trafficking network of women in Seville brought from Nigeria and forced into prostitution in Spain where they were deterred from escape by threats of voodoo curses. Before departing from Nigeria, they were taken to the shrine of a voodoo priest who took pieces of their fingernails and hair and performed a ritual in which he made the women swear they would not reveal the identity of their captors. An SNP Inspector involved in the case assured Post that the woman who brought the trafficking network to the attention of authorities received victim assistance. In August, Spanish authorities - working with German counterparts - disrupted a network of traffickers that brought women against their will from Nigeria to Germany via Spain, using false documentation to facilitate their entrance and employing voodoo as a vehicle of intimidation to force them into prostitution.

//SETTING THE SCENE FOR SPAIN'S ANTI-TIP EFFORTS//

¶9. (SBU) Checklist 26 A. Spain acknowledges that it has a serious trafficking problem and government officials at the highest levels addressed the problem of trafficking during the reporting period and pledged to continue the anti-TIP fight. Spain maintains an active set of political, legal and social mechanisms to combat TIP and coordinates this fight with national and international law enforcement, regional and local governments, and NGOs. Spain has a multi-disciplinary approach to fighting trafficking and includes NGOs and relevant agencies in each case.

¶10. (SBU) Checklist 26 B. The GOS in 2008 created a Ministry of Equality in part to oversee the final stages of the formulation of and the implementation of the government's long awaited anti-TIP plan. Spain's anti-TIP working group - now under the day-to-day management of the Ministry of Equality, which reports to the Office of the First Vice President - includes the Ministries of Interior, Justice, Labor, and Foreign Affairs. The Ministry of Interior continues to coordinate day-to-day law enforcement efforts to combat trafficking and the SNP has a special unit, the Immigration Networks and Falsified Documents Unit (UCRIF), which covers TIP-related issues. The UCRIF intelligence unit analyzes statistical data and trends, while coordinating efforts and sharing data with the GC and Interpol. Regional offices of the SNP conduct quarterly reviews to set goals for combating trafficking and to assess progress in meeting these goals from the previous quarter.

¶11. (SBU) Checklist 26 C-D. While funding could always be increased, Spain treats TIP efforts as a priority and has funded its three-year national anti-TIP action plan with 44 million euros

(roughly \$61 million dollars). In a December 2009 report, the Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings at the Organization for Security and Cooperation in Europe (OSCE) praised Spain for providing this "substantial" budget. We have no evidence that there is any TIP-related corruption in Spain's government. GOS efforts over the past year to implement its national action plan against TIP have allowed it to systematically monitor its anti-trafficking efforts on all fronts. The GOS has shared its assessments with relevant NGOs in Spain, and also international organizations such as the OSCE.

¶12. (SBU) Checklist 26 E. All immigrants in Spain (whether legal or illegal) are obliged to register in the census, in order to have access to social services. The census reflects country of origin, birth date, age, and sex.

¶13. (SBU) Checklist 26 F. - The GOS has shown itself to be capable of gathering the data required for an in-depth assessment of TIP-related law enforcement efforts. Post points to the new database created and maintained by CICO and the statistics assembled by the Prosecutor's office.

//INVESTIGATION AND PROSECUTION OF TRAFFICKERS//

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¶14. (SBU) Checklist 27 A. Spain has specific laws to prohibit trafficking in persons and other activities related to sexual and labor exploitation. These laws are applied in practice and are adequate to cover the full scope of trafficking offenses. Legislation implemented since 2007 includes a law to allow Spanish judges and prosecutors to pursue suspected TIP mafias outside Spanish borders. Previously, these Spanish officials did not have extra-territorial jurisdiction to follow these cases, but the new law modified the Organic Law of Judicial Power and incorporated "trafficking in persons and illegal immigration" into the category of crimes of "universal jurisdiction," along with terrorism, genocide, prostitution, and drug trafficking. Additionally, the Spanish Congress approved in late 2007 a change of the Spanish Penal Code to allow the pursuit of ships believed to be transporting trafficked persons or illegal immigrants, even if they are not in Spanish waters, and even if the ship's final destination is another EU country.

¶15. (SBU) Continue Checklist 27 A. Article 318 of Spain's criminal and penal code is the main piece of legislation that penalizes trafficking in persons. In the legislation, trafficking in human beings and trafficking in children are distinct crimes. Different paragraphs in Spain's Criminal Code penalize activities related to trafficking as it is defined in the Palermo Protocol. This includes, for both adults and children, crimes of sexual exploitation, labor exploitation, and slavery or practices similar to slavery, and domestic servitude. Spain also has legal provisions addressing the protection and assistance of victims, protection and assistance of witnesses, special measures for protection and assistance to children, residence permits for victims of trafficking, and compensation of victims. There are several other penal codes related to trafficking in persons, including: Article 312, Crimes Against the Rights of Foreigners; Article 313, Crimes Involving Forced Labor; and the "Ley Organica" (Organic Law for measures related to citizen security, domestic violence and the social integration of the foreigner).

¶16. (SBU) Continue Checklist 27 A. Illegal immigrants who are forced into prostitution are covered by the recently approved Alien Law of November 2009, which established a reflection period of at least 30 days for them to decide whether or not they will cooperate with the GOS. In the meantime they will benefit from housing, protection, medical and psychological assistance, free legal assistance, interpretation services, and some financial assistance. The Law provides that they will not be deported if they cooperate with the authorities in the investigation against their exploiters, giving them in exchange a residency and work permit, or helping them to return to their countries if so they wish. GOS officials emphasize to Post that - just as Spanish citizens who are TIP victims domestically within Spain - Romanian and Bulgarian victims

are exempt from the new law establishing a reflection period of at least 30 days to decide whether they would like to cooperate with police. As EU citizens, they now enjoy freedom of movement and the right to work in all other EU member states and face no deadline by which to denounce their captors and can claim their right to social services or to cooperate with authorities at any time.

¶17. (SBU) Continue Checklist 27 A. The Council of Ministers, the Zapatero Administration's Cabinet, on November 13, 2009 approved a new draft Penal Code to be sent to Congress for debate and approval.

Post understands that the draft has the support of all political parties in Congress and is expected to be approved during 2010. The bill establishes trafficking in persons as its own crime, separate from illegal immigration. The crime will be punished with 5-8 years imprisonment, which can be increased if there are aggravating circumstances. People subject to this punishment are those who recruit, transport, shelter, threaten, lie to, or abuse a national or foreign victim with any of the following goals:

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* Exploitation of his/her labor or services, slavery or similar practices

* Sexual exploitation, including pornography

* Trafficking in and/or extraction of human organs

¶18. (SBU) Continue Checklist 27 A. Prostitution and the procurement of prostitutes are decriminalized in Spain, but forcing others into prostitution and organizing prostitution rings are crimes.

Furthermore, it is illegal for anyone to profit from the prostitution of another. Spanish law makes it illegal for pimps or brothels to receive money from the prostitute's activities, even if the prostitute consents. Spanish law prohibits the involvement of minors (under the age of 18) in prostitution. The activities of the prostitute are not criminalized, but the activities of the brothel owner/operator, clients, pimps, and enforcers are criminalized. Spain continues to review its laws regarding prostitution. Spain's central government remains the principal authority for anti-trafficking enforcement while leaving the legal status of prostitution to Spain's 17 regional governments.

¶19. (SBU) Checklist 27 B. Spanish criminal law was amended in September 2003 to adapt Spanish legislation to that of other European Union countries. This amendment raised the penalty for the crime of trafficking in persons for sexual exploitation to a minimum of five years in prison and a maximum of 10 (previous sentencing guidelines ran from 2-4 years behind bars). Sentencing guidelines in convictions for encouraging, favoring, or facilitating the trafficking of persons from, in transit, or destined for Spain for the purpose of sexual exploitation are subject to imprisonment of 5-10 years, with an increase to 12-15 years if trafficking is carried out with violence, intimidation, deceit or abuse of the victim. Spanish courts at all levels use a combination of available penal codes in prosecuting crimes related to trafficking in persons to ensure a conviction because of a frequent lack of testimony from victims.

¶20. (SBU) Article one (13) of the above mentioned law modifies Article 318 bis. of the Penal Code:

-- Four to eight years in prison for a person who, directly or indirectly, promotes or facilitates the illegal trafficking of people or illegal immigration from, in transit within, or with a destination of, Spain.

-- If the human trafficking is for sexual exploitation, the prison sentences range from 5-10 years.

-- If the person committing the crime uses his/her position of authority to facilitate the trafficking, or if he/she is a public servant, the penalty will be 6-12 years.

-- In the event the victim of the crime is under age or has his/her life put in danger, or if the criminal belongs to an organized crime or trafficking ring, then the sentences applied will be on the higher scale.

¶21. (SBU) While Article 318 has been designed as the primary statute in TIP cases, the Network highlights that prosecutors in many instances charge TIP defendants with violation of Article 188 of the

Penal Code instead. Article 188 covers forced prostitution and profiting from the prostitution of another person and carries a lesser penalty of 2-4 years.

¶22. (SBU) Spanish judges often combine a trafficking sentence with a sentence for crimes involving theft, illegal detention, forgery of documents, or extortion. When a defendant is convicted of an additional crime two separate sentences must be served. Once sentenced, prisoners generally serve 75 percent of their sentence before being eligible for parole. A Spanish Supreme Court judge ruled in 2006 that each request for a reduction in sentence for good behavior must be applied to each sentence individually, meaning it is now much more difficult for criminals prosecuted on multiple

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counts related to trafficking to see parole.

¶23. (SBU) Checklist 27 C. Article 313 and the Organic Law 11/2003 cover forced labor. The sentencing guidelines are 4-8 years in prison for the person who, directly or indirectly, promotes or facilitates human trafficking from, in transit within, or to Spain. The GOS worked diligently on a companion strategy, its National Plan against Forced Labor throughout 2009 and it is nearly complete, according to MFA sources in early February 2010.

¶24. (SBU) Checklist 27 D. The penalty for rape is 6-12 years in prison, increasing to a possible 15 years with aggravating circumstances. The penalty for forcible sexual assault is 1-4 years in prison, 4-10 years with aggravating circumstances. Prescribed penalties for encouraging, favoring, or facilitating the trafficking of persons from, in transit within, or to Spain for the purpose of sexual exploitation or forced labor now stand at 5-10 years, with a possible 12-15 years with aggravating circumstances.

¶25. (SBU) The GOS has ratified all of the mentioned instruments, and the dates of ratification are:

-- ILO Convention 182 (April 2, 2001)
-- ILO Convention 29 (August 29, 1932)
-- ILO Convention 105 (November 6, 1967)
-- Optional Protocol to the Convention on the Rights of the Child (December 18, 2001)
-- Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (March 1, 2002)
The Council of Europe's Convention to Fight Trafficking in Persons entered into force in Spain on August 1, 2009, becoming the first "legally binding international instrument" that addresses this problem in a comprehensive manner. It provides for a period of at least 30 days for victims to consider whether they wish to cooperate with authorities as well as receive medical and psychological assistance and the right to compensation.

¶26. (SBU) Checklist 27 E. The Embassy engaged with relevant Spanish authorities to reinforce the importance of law enforcement and judicial statistics. Our contacts in the SNP, GC, and Ministries of Interior and Justice facilitated our access to prosecution data. Spanish authorities track TIP cases separately from illegal immigration and false documentation. Under Spanish labor laws, the government treats as traffickers and criminally prosecutes employers who confiscate workers' passports and use physical or sexual abuse to keep workers in a state of service. Traffickers serve an average of 75 percent of their sentence before being eligible for parole, but Spanish penal law limits the number of traffickers who receive early parole.

¶27. (SBU) Continue Checklist 27 E. For the first time, the State's Office of the Prosecutor has included in its annual Memoir, specific information about the number of accusations issued, as well as about the number of victims involved, and the number of people accused. The Special Prosecutor for TIP crimes has informed the Embassy that in 2008 his office started 21 cases of sexual exploitation, affecting 104 victims, and 57 defendants. Final data for 2009 should be available in October 2010. Additional information on specific TIP-related investigations, convictions and sentencing in Spain was available on-line through a subscription service to the Spanish affiliate of WESTLAW (www.westlaw.es). In 2009, our best, preliminary information indicates the government prosecuted 86

people in 26 cases regarding trafficking and secured 60 convictions with an average sentence of more than seven and a half years. Sixty percent of those convicted received a sentence of greater than 4 years while all of the 60 convictions we found were for sentences of 1 year or more. Fifty-eight percent of the 60 convictions received a fine.

¶28. (SBU) Checklist 27 F. The GOS provides specialized

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anti-trafficking training to law enforcement agencies. Training is provided to new recruits at the SNP academy in Avila, which offers a general version of TIP awareness during basic training and then offers a more detailed version for Inspectors and sub-Inspectors. NGOs continue to remain active in helping law enforcement agencies devise specialized training curriculum for officers who will be working trafficking cases. Officials from Proyecto Esperanza and other NGOs participated throughout the reporting period, at the invitation of the SNP, in a "Specialized Course on Trafficking in Persons Investigations." NGOs continue to tell us the SNP are increasingly sensitized to and trained for the special demands of TIP investigations. During an Embassy-hosted DVC between Spanish TIP officials and G/TIP Ambassador Luis CdeBaca (Ref B), an SNP/UCRIF Inspector remarked that - compared to even five years ago - he personally sees considerably more TIP awareness within the police force. The Office of the Prosecutor works closely with the Spanish Network Against Trafficking in Persons. On January 18, 2010, the Office of the Prosecutor in Galicia and the Autonomous Government of Galicia signed an agreement establishing a pilot project in which a regional prosecutor would work with NGOs to help TIP victims overcome their fears and self-identify themselves to authorities as TIP victims. The project also establishes a wide-ranging program of victim assistance to help them. Spanish prosecutors inform Post that, if the results in Galicia are successful, the central government's intention is to have all of Spain's autonomous communities create similar programs.

¶29. (SBU) Checklist 27 G. The GOS has bilateral accords with several countries that are major sources of TIP victims in Spain, and the GOS regularly cooperates in the investigation and prosecution of trafficking cases.

¶30. (SBU) Checklist 27 H-J. The GOS can extradite persons charged with trafficking, including its own nationals, but there have been no instances during the reporting period of the GOS extraditing Spanish nationals charged with TIP offenses. The GOS also has bilateral agreements with TIP source countries to extradite persons who are charged with trafficking. Spanish officials from the President on down are committed to fighting TIP, and we have no evidence of any Spanish government involvement in or tolerance of human trafficking.

¶31. (SBU) Continue Checklist 27 H-J. There was an isolated incident of corruption in the greater Barcelona area in March 2009 in which a UCRIF Inspector, Jose Javier Martin Puyal, allegedly was caught attempting to bribe a brothel owner 3,000 euros (roughly USD \$4,175) in exchange for turning a blind eye to alleged trafficking for the purposes of forced prostitution. The ensuing investigation revealed the alleged involvement of 15 individuals including police, ex-police, business owners and lawyers. Contacts in the Ministry of Interior tell Post that while the Spanish judicial system presumes the innocence of the accused, Martin Puyal is in preventative custody in jail while two other SNP officials are out on bail. The SNP has suspended the employment and salary of each of the three officials as they await trial.

¶32. (SBU) Checklist 27 L-M. The GOS is aware of the requirements of the 2005 Trafficking Victims Protection Reauthorization Act (TVPRA) for countries that contribute troops to international peacekeeping efforts. Our Spanish military contacts tell us that as part of their pre-deployment training, Spanish government troops receive TIP awareness training. We have no information of any Spanish nationals deployed abroad engaging in or facilitating severe forms of trafficking. Neither Post nor the Spanish MFA were aware of any reports in 2009 suggesting that Spanish nationals traveled abroad on child sex tourism. Spain's child sexual abuse laws do have

extraterritorial coverage and thus Spanish nationals could be prosecuted and convicted for acts committed in known child sex tourism destinations. In 2009, Spain completed its second Action

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Plan against Child Sexual Exploitation, the most recent of which covered 2006-09. Save the Children informs Post that there will be a third three-year Action Plan that is currently being drafted.

//PROTECTION AND ASSISTANCE TO VICTIMS//

¶133. (SBU) Checklist 28 A. As part of the implementation of the National Plan, which was officially approved in December 2008 and came in to force in January 2009, the Ministry of Equality in July convened the inaugural session of the Social Forum against the Trafficking in Persons for the Purposes of Sexual Exploitation. As of February 2010, the Forum - comprised of the inter-ministerial group, NGOs and regional and municipal government officials - has met twice to discuss TIP issues. As evidence that the government incorporates the feedback provided by the NGOs in the Forum, a working committee has been established to investigate labor exploitation of minors, according to MFA officials.

¶134. (SBU) Continue Checklist 28 A. TIP victims - as well as those of domestic violence - can call 016, toll-free nationwide, to receive 24-hour assistance from the Ministry of Labor and Social Affairs. Operators speak Castilian Spanish, Catalan, Galician, Basque, English and French. The Women's Institute, an autonomous entity affiliated with the Ministry of Equality, also offers a phone number for sexually exploited female TIP victims: 900 191 010.

¶135. (SBU) Continue Checklist 28 A. The GOS sends victims to NGOs, which provide temporary shelter and access to legal, medical, and psychological services. The victims are provided legal protection and temporary or permanent residency status if they cooperate with the GOS in going after the traffickers. Regional and local governments also provided victim assistance through NGOs. Medical attention, including emergency care, is provided through the national health care system. Project Esperanza and Save the Children inform Post they are unaware of any specialized victim protection services offered by the GOS to child victims or males who are forced labor trafficking victims.

¶136. (SBU) Continue Checklist 28 A. Two regional governments signed agreements to guarantee the comprehensive protection of victims who collaborate in the prosecution of organized crime networks that engage in TIP. As mentioned in Paragraph 28, Alberto Nunez Feijoo, the President of the Autonomous Community of Galicia, and the region's chief prosecutor on January 18, 2010 signed a Protocol on the Adoption of Measures of Prevention, Investigation and Treatment of Female Trafficking Victims for the Purposes of Sexual Exploitation. Three weeks earlier, Esperanza Aguirre, President of the Autonomous Community of Madrid signed a similar accord with the chief prosecutor in that region, although the Madrid version addressed all kinds of victims of violence, not just TIP victims.

¶137. (SBU) Continue Checklist 28 B. Spain has several victim care facilities which are accessible to trafficking victims, and most are run under the auspices of a network of anti-TIP NGOs with funding provided by the government and private sources. As Spanish nationals are rarely if ever trafficking victims, the vast majority of the assistance is provided to foreign trafficking victims. Article 59 of Spain's immigration law paved the way for recognizing the rights of those victims who have reported a crime and have collaborated effectively with police and legal authorities in the breaking up of TIP networks. The law establishes a legal mechanism for victims of trafficking to either obtain work and residence permits to remain in Spain, as well as welfare benefits or to obtain funding to return to their countries of origin.

¶138. (SBU) Continue Checklist 28 B. The National Action Plan calls for increases across the board in the support the government will provide to anti-TIP NGOs. As part of the implementation of the National Plan to Combat TIP for the purposes of Sexual Exploitation,

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the Council of Ministers in March approved the allotment of two million euros (roughly USD \$2.78 million) toward the creation of a TIP victim assistance fund. This money will cover the costs associated with specific programs (medical, legal, and psychological) for TIP victims and the will support the actions of NGOs who work in support of combating TIP. The money will be allotted to help NGOs improve the quality of care and protection that victims - including those in the country illegally - receive. The funds are also designed to improve victim's security and to prevent their exploiters' from influencing their testimony.

¶139. (SBU) Continue Checklist 28 B. Because Spain's central government has devolved funding for social issues to the regional level, the bulk of funding to protect TIP victims derives from the autonomous regional governments. To use Proyecto Esperanza as an example, the regional government in 2009 provided 373,655 euros (approximately USD 520,000). At the national level, the Ministry of Education, Social Policy and Sports provided 72,340 euros (just over USD \$100,000) while the Ministry of Equality provided 61,395 euros (roughly USD \$85,000). The Madrid municipal government gave 20,000 euros (roughly USD 27,800). The level of funding from the regional and national governments was higher than in 2008, as was Proyecto Esperanza's overall budget.

¶140. (SBU) Checklist 28 C. The government funds NGOs to provide shelter, counseling, legal and psychological assistance, job training, placement and reinsertion services, and assistance in obtaining visas that are available for those who testify against traffickers. NGOs submit annual grant proposals to the government to furnish services to victims. In addition to a number of women who remained in its shelters since 2008, Proyecto Esperanza took in 47 new victims in 2009. Of the 47, 17 were from Africa, 14 were from Eastern Europe, eight were from Latin America and seven were from Asia. This breakdown by nationality shows a strong increase in the proportion of African (primarily Nigerian) and Asian (mostly Thai) TIP victims. Thirteen were between 18-21 years old and another 13 were 22-25 years old. Nine victims were ages 26-30, seven were older than age 30, four victims' ages were unknown and one claimed to be a minor but was judged by the GOS to be an adult. Among the 47 new cases, 27 cooperated with authorities by denouncing the trafficking networks that had exploited them. Fifteen of the 47 returned to their country of origin after receiving victim assistance.

¶141. (SBU) Checklist 28 D-E. The GOS provides residence permits to those victims who provide information essential to the investigation and prosecution of traffickers. The law permits trafficking victims to remain in the country if they agree to testify against the perpetrators. Spain has a witness-protection law that allows a witness to remain anonymous. After legal proceedings conclude, victims are given the option of remaining in the country or returning to their countries of origin. Victims are encouraged to help police investigate trafficking cases and to testify against traffickers.

¶142. (SBU) Checklist 28 F-H. Spain's new plan to combat TIP formally establishes the referral of TIP victims to NGOs, although in practice, victims were already being referred directly by Spanish law enforcement to anti-TIP NGOs, who are then able to provide both short- and long-term care. In July 2009, the Office of the Attorney General in Spain released its annual report for 2008, in which it reported that the SNP and the GC disrupted 263 TIP networks and related services and attended 1,618 victims. Spanish authorities tell us they are working on a mechanism for screening trafficking victims among persons involved in the decriminalized commercial sex trade. Post fully expects the SNP once again to furnish us with a restricted internal report that provides detailed information on TIP enforcement trends, including TIP-related arrests and the number of trafficking victims identified during the reporting period. Post

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will provide this information septel.

¶143. (SBU) Checklist 28 I. The GOS makes every effort to respect the

rights of TIP victims, and TIP and prostitution victims are not considered criminals and do not go to jail. They are sent to NGOs that ensure proper care is provided to them. In the past, at least some TIP victims who refused to testify against the perpetrators were jailed and deported as illegal aliens, but our contacts tell us that is not routine. If victims are in serious danger they may even be provided with a new identity in order to help ensure protection.

¶44. (SBU) Checklist 28 I. The Ministry of Interior (MOI) is reconsidering the way it handles TIP victims, according to Spanish press reports in January 2010. Until now, both traffickers and victims were arrested at the same time, and on occasion they were initially taken to the same Police facilities, where the traffickers threatened the victims into not cooperating with authorities. The Police authorities have started working on a "best practices" code for which they have requested the cooperation of police agents who investigate these crimes. The Ministry's intention is to increase - by the end of 2011 - the number of arrests of traffickers by eight percent and to double the financial investigations of the criminal networks. Also by the end of 2011, all police agents in charge of investigations - including those participating in peacekeeping operations - will have received specific training on TIP. The MOI also will increase by five percent its workforce in the fight against TIP, and would like for all victims who report these crimes to have their situation regularized in Spain as soon as possible, for which the MOI will propose to reduce the waiting time down to four days for these women to receive the residency permits. Before the end of 2010, the police are supposed to release a brochure in several languages about the rights of the TIP victims, as well as the assistance they may be able to obtain.

¶45. (SBU) Checklist 28 J. The GOS encourages victims to assist in the investigation and prosecution of traffickers and provides residence permits to those victims who provide information essential to the investigation and prosecution of traffickers. The law permits trafficking victims to remain in the country if they agree to testify against the perpetrators. Spain has a witness-protection law that allows a witness to remain anonymous. After legal proceedings conclude, victims are given the option of remaining in the country or returning to their countries of origin. Victims are encouraged to help police investigate trafficking cases and to testify against traffickers. Proyecto Esperanza notes that, traditionally, victims who cooperate receive a residency permit valid for one year, which is renewable for a two-year period if the victim obtains a legal job. At this point, to destigmatize victims, they are asking for the renewal not as TIP victims but as any other immigrant would do. If the victim can secure a second renewal for a total of five years, then the permit is for permanent residency. Consequently, victims who change their minds about collaborating can reconsider at any of these junctures. If the victims opt not to cooperate and wish to return to their country of origin, the GOS will work with them on an assisted return.

¶46. (SBU) Continue Checklist 28 J. A high-profile incident involving alleged trafficking in persons for the purposes of forced labor occurred in Barcelona in June 2009. In Catalonia's largest law enforcement operation to date, 750 agents of the Mossos d'Esquadra (Catalonia's regional police force) searched 72 establishments and apartments with the objective of detaining the individuals in charge of taking advantage of hundreds of fellow Chinese immigrants' labor in exchange for very low salaries. The raid, known as Operation Wei, was directed at identifying the leaders of the exploitation network and their connections to the Chinese mafia. Most of the alleged victims of the operation were Chinese immigrants subjected to unhealthy working conditions including long work shifts and being made to sleep in the workshops.

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A thorough investigation by the U.S. Consulate in Barcelona revealed that the Mossos and two human rights NGOs considered the matter a labor rights issue rather than a trafficking issue. The detained individuals were suspected of violating workers' rights, a crime that is subject to two to five years in prison. None of the 450 workers self-identified themselves as trafficking victims who were being exploited, explaining instead that their culture did not object to the long hours and the working conditions they

experienced. According to the NGO Accem, most of the workers were in Spain legally.

¶47. (SBU) Checklist 28 K-L. The GOS continued to fund and encourage NGOs to provide specialized training for government officials in recognizing trafficking and providing assistance to trafficked victims. During the reporting period, this training took place in the cities of Madrid and Merida and the region of Extremadura and has been ongoing in recent years. Training continues to be available for immigration officials and social service providers. NGOs remained active in helping law enforcement agencies devise specialized training curriculum for officers who will be working trafficking cases. Proyecto Esperanza officials provided separate, specialized TIP training workshops and roundtables for the SNP, the GC, the Bar Association of Madrid, and others in 2009. Spain is generally not a source country for trafficking, and our contacts in the Ministry of Foreign Affairs are not aware of any Spanish nationals abroad who are either victims of trafficking or who have participated in or facilitated severe forms of trafficking. If such cases do arise, the GOS tells us they would provide medical aid, shelter and financial help to its repatriated nationals. Our MFA contacts further confirm that Spain provides training on protection and assistance to TIP victims to its embassies and consulates abroad.

¶48. (SBU) Checklist 28 M. The Spanish Network against Trafficking in Persons formed in 2006 to increase the effectiveness and efficiency of its work with trafficking victims. The Network is currently made up of more than 20 NGOs, including Proyecto Esperanza, the Association for the Prevention, Reintegration and Attention of Prostituted Women (APRAMP), Accem, and the Spanish chapters of Save the Children, Red Cross and Women's Link Worldwide. The Network is committed to "prevent, identify, assist, protect and ensure the healing of trafficking victims in Spain." In February 2009, it publicly presented its "Basic Guide to Identify and Protect Trafficking in Persons victims" to help identify TIP victims. The Embassy maintains very close contacts with Spain's anti-TIP network and one of its senior coordinators has participated in the Department's International Visitor's Program. The Spanish government contracts with and subsidizes NGOs and other programs that provide shelter and vital services for trafficking victims and witnesses, to include protection, housing, and counseling. Several NGOs operated shelters in Madrid and Barcelona, provided assistance with medical and legal services, and acted as liaison with law enforcement for victims who chose to testify against traffickers. Some of these NGOs have a housing and reinsertion program for victims of trafficking and smuggling who wish to remain in Spain and will help women apply for residence visas. These NGOs received many referrals directly from police. The Catalonian regional and municipal government contracted with Caritas, other NGOs, and sometimes religious organizations for the same services. Spanish NGOs in Madrid receive funding at the federal level (Ministry of Labor and Social Services), regional level (Madrid province) and city level (Madrid City).

¶49. (SBU) Continue Checklist 28 M. Madrid-based Proyecto Esperanza held a conference on December 2, 2009 to mark its 10th anniversary, during which time it has aided 520 female human trafficking victims from 25 nationalities. Proyecto Esperanza provides a 24-hour phone number (607 54 25 15) for TIP victims, but the money is not specifically earmarked for this purpose and Proyecto Esperanza

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informs Post that the NGO does not consider this to be a national hotline.

¶50. (SBU) Checklist 28 M. The SNP also provides possible TIP victims with sturdy, laminated business cards from APRAMP, in partnership with the Ministry of Labor and Immigration. These cards notify potential victims of their rights and inform them how to seek a variety of available assistance, including lodging, medical treatment, job search assistance, and administrative help. The APRAMP phone number on these cards is listed as 609 589 479.

//PREVENTION//

¶51. (SBU) Checklist 29 A. In fulfillment of objectives called for in its national action plan against TIP for the purposes of sexual exploitation, Spain in October 2009 began a broad variety of anti-trafficking information campaigns. The efforts were so sustained and high profile that Post would find it extraordinarily difficult to attempt to gauge the cumulative size of the audience reached. In addition to the public seeing the various flyers, banners, exhibits and other displays, these initiatives were extensively covered in the print, broadcast and Internet-based media.

¶52. (SBU) Continue Checklist 29 A. The Ministry of Equality in October - timed to coincide with the European day against Trafficking - sponsored a photographic exhibit entitled "Don't be an accomplice" to build awareness of TIP and to decrease demand for sexual exploitation. The Minister of Equality made a public call for no one to be an accomplice in the trafficking of women and girls, whether in their capture, the advertisement of their sexual exploitation, or a client of their forced services.

¶53. (SBU) Continue Checklist 29 A. The Ministry of Equality in November began to distribute more than five million beer coasters to bars, cafeterias, restaurants, and nighttime leisure locations belonging to the Spanish Youth Hostel Network (FEHR), which has a membership of 350,000 establishments. On one side of the coaster is the slogan "No to Sexual Exploitation" and on the other is one of four different messages, each aimed at building awareness among men who pay for sexual services, highlighting that the majority of women who work as prostitutes are sexually exploited by organized crime networks.

¶54. (SBU) Continue Checklist 29 A. The Ministry of Equality in December teamed with British actress Emma Thompson to launch an interactive art exhibit, entitled "The Journey," in Retiro Park (Madrid's equivalent to New York's Central Park) to build awareness of organized crime networks that traffic in women for the purposes of sexual exploitation. This effort was co-sponsored by the Region of Madrid, the City of Madrid, and The Network. According to Proyecto Esperanza, the exhibition had 4,000 visitors.

¶55. (SBU) Continue Checklist 29 A. Local governments, notably those in Spain's largest cities of Madrid, Barcelona, and Seville continued efforts to discourage prostitution (please see paragraphs 59-63 for a more detailed discussion of GOS efforts to reduce demand). The Ministry of Labor and Social Affairs and the Ministry of Equality in November and December funded and co-sponsored a series of documentary films on TIP for the purposes of sexual exploitation. The films were shown in Barcelona, Bilbao, Madrid and Toledo. A different documentary was presented in four successive weekends.

¶56. (SBU) Checklist 29 B. During the reporting period, the Spanish government continued to monitor immigration and emigration patterns for evidence of trafficking, and law enforcement agencies screened for potential trafficking victims at Spain's air and seaports, and

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along its border with France. An ongoing trend is the increasing frequency of individual traffickers deceiving their victims by establishing a relationship with them by pretending they were their boyfriends or by capitalizing on a pre-existing relationship as a family friend. The trafficker and victim arrived in Spain legally and with legal passports, and once inside the country the trafficker would send his victim into a trafficking network.

¶57. (SBU) Checklist 29 C. Spain's formal inter-agency mechanism for coordination and communication is the anti-TIP working group, established in 2006 by Spanish First Vice President Maria Teresa Fernandez de la Vega. Working-level officials in the Ministry of Equality now oversee this group and are in frequent contact with the Embassy.

¶58. (SBU) Checklist 29 D. As has been detailed, virtually all of Spain's anti-TIP efforts were in fulfillment of the 2009-2012 plan to combat TIP for the purposes of sexual exploitation, which

provides a broad policy framework to combat TIP with a three-pronged focus: victim assistance, fighting against trafficking networks, and information campaigns to build public awareness. VP de la Vega tasked the Ministries of Equality, Interior, Justice, Labor, Foreign Affairs, and Education to produce a comprehensive plan to combat trafficking in persons, which was made approved by the Council of Ministers on December 12, 2008. The GOS shared early drafts of the TIP plan with Eva Biaudet, the OSCE's then special representative on TIP, and with relevant Spanish NGOs for review and comment. To re-cap, the plan specifically establishes:

- A reflection period of at least 30 days for TIP victims who are in the country illegally to decide whether or not they will cooperate with the GOS. In the meantime they will benefit from housing, protection, medical and psychological assistance, free legal assistance, interpretation services, and some financial assistance.
- "Cautionary" confiscation of traffickers' assets at the beginning of the process, although only a condemnatory sentence would make the seizure firm.
- Creation of a fund with the assets confiscated from the mafias to attend victims and to strengthen police actions.
- Creation of units to attend victims, as well as the creation of shelter centers with integral attention programs.
- Use of biometric identifiers in visas and residency permits.
- A new control mechanism in ports, airports, and other transportation means to identify possible cases of trafficking.
- Research about the consequences of trafficking activities on their victims, and ways to help them.
- Information campaigns addressed to travel agencies, and organizers of events involving large crowds.
- Creation of a Forum Against Trafficking made of public institutions, NGOs, and others.
- Creation of an inter-ministerial Coordinating Group to follow up the Plan (Ministries of Equality, Foreign Affairs, Justice, Interior, Education, Social) which was established in January 2009.

¶59. (SBU) Checklist 29 E. At the national and local levels, Spain instituted a variety of measures to reduce the demand for commercial sex acts, including a number of measures discussed in Paragraph 55 in response to Checklist 29A. As part of this effort, the central government undertook a campaign throughout 2009 to pressure newspapers not to publish classified ads that publicize fairly explicit services offered by prostitutes, many of whom are thought to be TIP victims. The Minister of Equality met with the editors of several newspapers and the First Vice President met with the Federation of Spanish Journalists to discuss the issue. Several NGOs and civic society leaders supported this effort by accusing numerous Spanish newspapers of hypocrisy because they tout an editorial line that condemns TIP for the purposes of sexual exploitation while earning millions of dollars per year for publishing these ads. *El Pais*, Spain's leading daily publishes the

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greatest amount of these ads, which reportedly generates about five million euros (nearly USD \$7 million) worth of income per year. The government's efforts secured a victory in December 2009, when conservative newspaper *La Razon*, Spain's fifth-leading daily, with 187,000 daily readers, banned classified ads publicizing commercial sexual services.

¶60. (SBU) Continue Checklist 29 E. In August, *El Pais*'s publication of graphic photos of prostitutes practicing sex in the streets of downtown Barcelona sparked a national debate on how best to address prostitution and curb demand. On September 22, 2009 the national Congress overwhelmingly rejected a proposal to regulate prostitution. Most political parties in Congress indicated that it does not make sense to talk about the legalization or prohibition of prostitution, arguing instead that the only option is to fight the mafias that exploit women. Media reports and government officials regularly suggested that 90 percent of prostitutes in Spain are sexually exploited and engage in prostitution against their will.

¶61. (SBU) Continue Checklist 29 E. In the absence of national legislation on the issue, the municipal governments of Spain's largest cities took differing measures. As mentioned in Paragraph 54 in answer to Checklist 29A, Madrid's city hall co-sponsored the

exhibition entitled "The Journey" to dissuade potential clients of prostitutes. Madrid also increased police pressure, although neighbors continue reporting about the presence of prostitutes and their pimps in the streets. These actions built upon efforts in 2007, when 31 video cameras were installed in one of the city's largest parks, where prostitutes often gathered at night, and in 2008, when another 30 cameras were installed in Madrid's downtown streets.

¶62. (SBU) Continue Checklist 29 E. Barcelona Mayor Jordi Hereu sought national and/or regional legislation that could help municipalities to control prostitution in public areas, going beyond the debate about legalizing or not prostitution. In the meantime, Barcelona increased the number of municipal police in the streets, and started campaigns discouraging men to seek those services in the public areas.

¶63. (SBU) Continue Checklist 29 E. Seville, Spain's fourth largest city, in November 2009 unveiled a five-year, Integrated Plan Against TIP, Prostitution and Other Forms of Sexual Exploitation. The plan will run during 2010-2015 and has a budget of 500,000 euros (roughly USD \$700,000). The city hall emphasizes that its plan is a victim-centered approach that will fine clients up to 3,000 euros (roughly USD \$4,175) for having sex with prostitutes in the streets.

Fees collected will be applied toward social programs. As a further part of its efforts to curb demand, Seville in September began a public awareness campaign entitled, "Paying for Sex is Investing in Violence," which is a follow-up to last year's campaign, entitled, "Are you worth so little that you have to pay for it?". This year's campaign has a budget of approximately 15,000 euros (nearly USD \$21,000).

¶64. (SBU) Checklist 29 F. The Spanish government has strict rules on the books for Spanish nationals caught participating in international child sex tourism. The MFA informed Post it had seen no information in 2009 regarding Spanish nationals have traveled abroad on child sex tourism. Spain's child sexual abuse laws do have extraterritorial coverage and thus Spanish nationals could be prosecuted and convicted for acts committed in known child sex tourism destinations. GOS officials tell Post that the Ministry of Industry, Tourism and Commerce in 2009 partnered with the World Tourist Organization to discourage child sex tourism. The GOS also maintained a website, www.NoHayExcusas.org, from a former campaign with UNICEF to warn potential child sex tourists that they may feel a sensation of legal immunity when they are abroad in places such as Asia or Latin America, but that Spanish law would still apply to

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them upon their return. When Mission Madrid receives information on pedophiles and sexual predators, this information is then included in the Consular Lookout and Support System.

¶65. (SBU) Continue Checklist 29 F. The new Penal Code currently being debated by Congress and expected to be approved in 2010 will include the crime "abuse of and sexual attack on minors," with jail sentences that range from 3-6 years (the current penalties are from 1-3 years). If violence is involved, the penalty will be from 5-10 years in jail. The penalty for sexual relations with a minor will be 8-12 years in jail if violence is not involved, or from 12-15 years if violence is involved.

¶66. (SBU) Continue Checklist 29 F. This new Penal Code also will establish as a crime the recruiting of minors for pornographic shows, profiting from minors' participation in pornographic shows, or supplying children for use in pornography. Jail sentences for those promoting the prostitution of minors will be of 1-5 years (currently 1-4 years), and if the minor is under 13 years old, the sentence will be of 4-6 years. Recruiting minors for their prostitution will be punished with 4-6 years of jail, and if the minor is under 13 years old, the sentence will be from 5-10 years. Recruiting of minors for pornographic shows will be punished with 1-5 years in jail (currently 1-4 years), and if the victim is under 13, the sentence will be from 5-9 years (currently 4-8 years). The new code also will punish prostitution clients for engaging in sexual relations with a minor or a person with disabilities.

¶67. (SBU) Checklist 29 G. We have no information on any Spanish military officials deployed abroad engaging in or facilitating forms of trafficking, or exploiting victims of such trafficking. On February 6, 2009, the GOS approved a royal decree with a new ethics code for the Spanish Armed Forces, which among other things, obliges the military to protect the defenseless, such as women and children, from prostitution or sexual violence. Post understands that peacekeepers are included among the Spanish military who receive pre-deployment trafficking awareness training.

//PARTNERSHIPS//

¶68. (SBU) Checklist 30 A. As this cable has detailed, Spain's central government throughout 2009 partnered with foreign countries, regional governments within Spain, city halls, NGOs, civil society, and multilateral organizations.

¶69. (SBU) Continue Checklist 30 A. According to press reports, representatives of every political party in the Spanish Congress of Deputies created a working group in November to combine forces to help make the battle against TIP a Europe-wide priority. Socialist Deputy Carmen Calvo, the chairwoman of the Equality Committee who led the initiative, publicly stated that Spain wanted to use its stint as rotating President of the European Union (EU) during January-June 2010 to advance new legislation against TIP within the EU, to foster closer anti-TIP cooperation by police among member-states, and to build public awareness of the issue among the European public.

¶70. (SBU) Continue Checklist 30 A. Spain in December 2009 received a positive assessment in the OSCE's annual report on combating TIP. The Office of the Special Representative (SR) and Coordinator for Combating Trafficking in Human Beings praised Spain for undertaking "important initiatives and concrete and substantial steps in compliance with the recommendations" which the SR previously provided for Spain. The OSCE commended Spain for, among other things, the establishment of a broad, multi-disciplinary consultative forum with civil society and Spain's ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, which went into force in Spain in August 2009.

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¶71. (SBU) Continue Checklist 30 A. Post does not have access to an advance copy of the soon-to-be-published OSCE report specifically on TIP in Spain, in response to Madrid's invitation in 2007 for the OSCE to perform a peer review of the TIP situation in Spain and Spanish efforts to address it. An MFA official who has read the roughly 100-page draft report describes it as "fair" and suggests the "tone is perfect." Our MFA contact also reveals that the report commends the Spanish government's openness and cooperation with the OSCE.

¶72. (SBU) Continue Checklist 30 A. In October Spanish TIP officials from the Office of the First Vice President, the Ministry of Interior, the SNP, the Prosecutor's office, and CICO participated in a DVC with G/TIP Ambassador CdeBaca. As noted in Ref B, the Spanish reacted positively to suggestions that the USG and Spain explore ways to partner our anti-TIP programs in third-countries to eliminate duplication of effort while also playing to each other's strengths. Spain cooperates with the governments of trafficking victims' countries of origin. A Ministry of Equality official informs Post that Spain is especially active in working Latin American governments. During the most recent reporting period, Spanish officials worked with Brazil, Colombia, Uruguay, and Central America. Spain cooperates with Romania and Bulgaria - as countries of origin for TIP victims - through the European Union.

¶73. (SBU) Checklist 30 B. Specifically, Spain offers developmental aid through its USAID-equivalent, police cooperation and training courses on how to combat trafficking in persons.

CHACON